

# Exhibit 12

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ALLERGAN USA, INC., and  
ALLERGAN INDUSTRIE, SAS,  
Plaintiffs,

v.

Case No.:

8:13-cv-01436 AG (JPRx)

MEDICIS AESTHETICS, INC.,  
MEDICIS PHARMACEUTICAL CORP.,  
VALEANT PHARMACEUTICALS NORTH  
AMERICA LLC, VALEANT  
PHARMACEUTICALS INTERNATIONAL,  
VALEANT PHARMACEUTICALS  
INTERNATIONAL, INC., and  
GALDERMA LABORATORIES, L.P.

## Defendants.

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VIDEOTAPED DEPOSITION OF PIERRE LEBRETON, Ph.D.

30 (b) (6) FOR ALLERGAN

### San Diego, California

Wednesday, January 14, 2015

Reported by:

## LESLIE JOHNSON

RPR, CSR No. 11451

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1 MS. FLANAGAN: Objection. Vague.

2 THE WITNESS: Can you translate this one?

3 THE INTERPRETER: Can you please repeat?

4 BY MR. ROSSEN:

5 Q. Would you have investigated other attempts  
6 to add lidocaine to products at Corneal when you  
7 began the investigations?

8 A. Okay. So nothing I can remember.

9 Q. When you started researching HA dermal  
10 fillers with lidocaine in 2004, were you aware of  
11 any other manufacturers that premixed lidocaine into  
12 HA fillers?

13 A. I was not.

14 Q. Do you have a view as to why there were no  
15 manufacturers doing that?

16 A. No, I don't.

17 (Exhibit 81 marked for identification.)

18 BY MR. ROSSEN:

19 Q. I'd like to mark as Exhibit 81 -- let me  
20 mark as Exhibit 81 plaintiffs' opening claim  
21 construction brief filed in this action.

22 And if you can turn to page 4. In the  
23 middle of this paragraph under B, it says, "Named  
24 inventor, Dr. Pierre Lebreton, began working on  
25 these compositions in the mid-2000s. At that time,

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1 physicians were commonly treating patients with  
2 lidocaine either topically or by injection before  
3 injecting the HA filler. Alternatively, some  
4 physicians were mixing lidocaine into the HA filler  
5 immediately before injection. However, the mixing  
6 was not precise and changed the properties (e.g.,  
7 viscosity) of the HA filler. In both of these  
8 scenarios, lidocaine was used to minimize the pain  
9 associated with injection of the HA filler. At that  
10 time, manufacturers were not premixing lidocaine  
11 into their HA fillers because it was believed that  
12 doing so would degrade the HA fillers and thus  
13 change their properties. Going against the  
14 conventional wisdom, Dr. Lebreton discovered that  
15 lidocaine could be added to his BDDE-cross-linked HA  
16 fillers without degrading the properties and  
17 long-term performance of the products."

18 Do you agree with this statement that at  
19 the time in the mid-2000s manufacturers were not  
20 premixing lidocaine into their HA fillers because it  
21 was believed that doing so would degrade the HA  
22 fillers and change their properties?

23 A. I don't -- I don't know about this  
24 document. I have never seen this before. Who wrote  
25 that?

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1           Q.    So this was a document submitted by  
2 Allergan in this litigation.

3           A.    Okay.

4           Q.    But do you agree generally with that  
5 statement that at the time manufacturers were not  
6 premixing lidocaine for that reason, that it was  
7 believed that doing so would degrade the HA fillers?

8           A.    I don't know.

9           MS. FLANAGAN: Objection. Vague.

10           Give me a chance, Doctor.

11           Objection. Vague. Compound.

12           THE WITNESS: I don't know about the  
13 manufacturer, so I cannot comment about the reasons  
14 why. But what I know is that HA plus lidocaine is  
15 not a good mix, especially when it has to be heat  
16 sterilized.

17           BY MR. ROSSEN:

18           Q.    So sitting here today, you don't have a  
19 view one way or the other about why manufacturers  
20 were not pre-mixing lidocaine at that time?

21           A.    No.

22           Q.    Do you believe that, generally, the state  
23 of the art in the mid-2000s, that there was a belief  
24 that lidocaine would degrade HA fillers?

25           MS. FLANAGAN: Objection. Vague and calls

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1 dermal fillers?

2 A. Yes.

3 Q. Can you identify the others that you were  
4 working with?

5 A. There was mainly one engineer colleague of  
6 mine.

7 Q. And who was that?

8 A. You want to know his name?

9 Q. Uh-huh.

10 A. His name is Samuel Gavard.

11 Q. And what was his role on the team?

12 A. His role was to conduct trials and to do  
13 the lab work.

14 Q. And what kind of background does  
15 Mr. Gavard have?

16 A. Samuel has a chemical engineer background.

17 Q. Is that a Ph.D.?

18 A. I can't remember. I think that he was not  
19 a Ph.D. He was a chemist, master's degree of  
20 engineering.

21 Q. And he is no longer at Allergan; is that  
22 correct?

23 A. He is no longer.

24 Q. Going back for one moment. Did you learn  
25 in 2004 that physicians were premixing lidocaine

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1 with Corneal's dermal fillers?

2 A. I cannot remember.

3 Q. Is it possible you would have known at the  
4 time?

5 A. If it were the case, yes, it is possible  
6 that I would have known that.

7 Q. But you don't know one way or the other?

8 A. I can't remember if I knew that in 2004.

9 Q. But you were generally aware in 2004 that  
10 this was a practice?

11 A. It was part of the practice. From my  
12 memory, I think in 2004 this was not the most  
13 commonly used technique to get the anesthesia. So I  
14 think in 2004 it was mostly the use of anesthesia  
15 creams, it was the use of injecting lidocaine  
16 solution previously to the treatment.

17 Specifically mentioning the premixing, I  
18 can't remember exactly in 2004 someone commenting  
19 about I'm doing this and this.

20 Q. When in particular did you come to  
21 understand that there was this practice of  
22 premixing?

23 A. That's difficult. I cannot answer this.  
24 This -- you know, again, this is more than 14 years  
25 for me. This is a very dynamic market. I mean,

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1 you've got new techniques every other week. So my  
2 belief in that is also that this practice came also  
3 strongly or presently or after we did introduction  
4 of the Juvederm lidocaine product.

5 Q. So is it your understanding that it's  
6 become a more common practice over time?

7 A. Probably it was more -- again, this is a  
8 hypothetical that I'm making. But maybe people were  
9 more willing to share this practice knowing that  
10 there were a product with lidocaine on the market  
11 that we -- that we were able to . . .

12 Q. So you think that maybe others were more  
13 willing to premix lidocaine knowing that there were  
14 lidocaine-mix products available on the market?

15 A. Probably. Again, this is my assumption of  
16 this.

17 Q. Thanks. And just for the court reporter's  
18 benefit, be a careful to let me just finish the  
19 question. You've been good about it so far.

20 So going back to the research team, were  
21 there any others beside Samuel Gavard that worked on  
22 the team with you?

23 A. So, of course, speaking about the, the  
24 development feasibility, you've got what we call  
25 design committee team. So specifically regarding